

## ADEQ Briefings on Rule Developments

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Persons wishing to follow ADEQ rulemaking activity and substantive policy statements should review the Arizona Administrative Register.

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### OFFICE OF ADMINISTRATIVE COUNSEL

#### Licensing Time Frames II Update

##### (18 A.A.C. I, Art. 5)

In this rulemaking, ADEQ proposes to repeal and amend licensing time-frame (LTF) rule text and to repeal, amend and add licenses to LTF tables as required to conform to licensing program requirements that have evolved in response to statutory and rulemaking changes. The rulemaking would also clarify ADEQ's obligations to act under Article 7.1 of the Administrative Procedure Act (the LTF statutes), based on ADEQ's actual experience under the rule.

**Docket Opening:** [12 A.A.R. 2577](#); July 21, 2006 and [12 A.A.R. 2972](#); August 18, 2006

**Notice of Proposed Rulemaking:** [12 A.A.R. 2290, 2926](#); August 18, 2006

**Public Hearing:** September 28, 2006 in Phoenix

**Contact:** Deborah K. Blacik: (602) 771-2223

#### Administrative Appeals

##### (18 A.A.C. I, Art. 2)

The proposed rules are part of ADEQ administrative procedures establishing the nature and requirements of all formal procedures available to the public. Specifically, ADEQ proposes changes to the administrative appeals rules that govern appeals filed with ADEQ requesting a hearing before the Office of Administrative Hearings (OAH) or the Water Quality Appeals Board. The rationale for this rulemaking is to improve the clarity and efficiency of rules governing formal administrative adjudications filed with the ADEQ.

**Docket Opening:** [12 A.A.R. 1345](#); April 21, 2006

**Contact:** Edward M. Ranger: (602) 771-4477

### AIR QUALITY DIVISION

#### Transportation Conformity 2005

##### (18 A.A.C. 2, Art. 14)

The Arizona Department of Environmental Quality (ADEQ) is considering updating its

current transportation conformity rules to reflect the requirements of federal transportation conformity rules at 40 CFR 93.100 through 93.129 and the Clean Air Act section 176(c), as revised by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of August 10, 2005.

**Docket Openings:** [11 A.A.R. 2235](#); June 10, 2005  
[12 A.A.R. 2044](#); June 9, 2006

**Contact:** Diane Arnst (602) 771-2375

### **Mercury Rule (18 A.A.C. 2, Art. 7)**

The Arizona Department of Environmental Quality has proposed rules establishing standards of performance for the control of mercury emissions from new and existing stationary coal-fired electric utility steam generating units, as defined in § 111 of the Clean Air Act, that are as stringent as the federal rule, at 40 CFR 60, Subparts Da and HHH.

**Docket Opening:** [12 A.A.R. 1712](#) May 19, 2006

**Proposed Rulemaking:** [12 A.A.R. 2809](#); August 11, 2006

**Public Hearing:** September 12, 2006 in Phoenix

**Contact:** Steve Burr (602) 771-4251

### **Office of Administrative Hearings (18 A.A.C. 2, Art. 3 and Art. 5)**

The Arizona Department of Environmental Quality has proposed amendments to permit rules referring to the "hearing board," so that they refer to the correct body to hear permit decision appeals, the "Office of Administrative Hearings."

**Docket Opening:** [12 A.A.R. 1711](#); May 19, 2006

**Proposed Rulemaking:** [12 A.A.R. 2290](#); June 30, 2006

**Public Hearing:** Was held on August 11, 2006 in Phoenix

**Contact:** Kevin Force (602) 771-4480

### **"Dispersion Technique" Definition (18 A.A.C. 2, Art. 4)**

The Arizona Department of Environmental Quality has proposed amendments R18-2-401 so that the definition of "dispersion technique" at R18-2-401(4) is consistent with the definition of "dispersion technique" at R18-2-301(6).

**Docket Opening:** [12 A.A.R. 1711](#); May 19, 2006

**Proposed Rulemaking:** [12 A.A.R. 2640](#); July 28, 2006

**Public Hearing:** Was held on September 6, 2006 in Phoenix

**Contact:** Kevin Force (602) 771-4480

### **Article 7 Technical Amendments (18 A.A.C. 2, Art. 7)**

The Arizona Department of Environmental Quality is in the process of proposing to amend a number of rules in Article 7 to correct several technical and typographical errors. This rulemaking would include the repeal of R18-2-718, Standards of Performance for Existing Kraft Pulp Mills, since there are no longer any operating sources of this sort

in Arizona; the deletion of the reference to the now-defunct smelter at San Manuel; and the deletion of language in R18-2-729, Standards of Performance for Cotton Gins, which refers to language in R18-2-702, General Provisions, that is no longer applicable.

**Docket Opening:** [12 A.A.R. 2306](#); June 30, 2006

**Contact:** Kevin Force (602) 771-4480

## TANK PROGRAMS DIVISION

### **NFA/MNA Rule (18 A.A.C. 12, Arts. 1, 2, and 9)**

ADEQ is considering rules: 1) for issuance of no further action (NFA) letters for leaking underground storage tank (LUST) sites once the source has been removed and a corrective action plan or state assurance fund work plan has been approved that includes monitored natural attenuation (MNA); 2) allowing ADEQ to close certain groundwater LUST cases where there is an exceedance of the aquifer water quality standards, and 3) to implement the MNA account to be used by ADEQ to continue to monitor LUST sites that have been issued an NFA letter and to perform additional corrective actions if necessary.

**Docket Opening:** Publication expected Sept. 29, 2006

**Contact:** Philip McNeely (602) 771-7645

## WASTE PROGRAMS DIVISION

### **Hazardous Waste Rule Amendments (2005) (18 A.A.C. 8, Art. 2)**

ADEQ has made changes to the state's hazardous waste rules to incorporate changes in the federal regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The amendments adopt changes to the federal regulations that became effective between July 1, 2004 and September 6, 2005. In addition, the rule allows members of ADEQ's newly established Performance Track Program to submit manifests to ADEQ at less frequent intervals than other generators.

A public hearing on the proposed rule was held on June 6, 2006 at ADEQ and the public comment period closed on June 9. The final rule was approved by GRRC at its August 1, 2006 meeting and was published in the Arizona Administrative Register on August 25, 2006. The effective date of the rule is October 1, 2006.

**Docket Opening:** [11 A.A.R. 4987](#); Nov. 25, 2005

**Notice of Proposed Rulemaking:** [12 A.A.R. 1452](#); May 5, 2006

**Hearing:** June 6, 2006

**Close of Comment:** June 9, 2006

**GRRC Meeting:** August 1, 2006

**Notice of Final Rulemaking:** [12 A.A.R. 3061](#); August 25, 2006

**Contact:** Mark Lewandowski (602) 771-2230

## WASTE PROGRAMS DIVISION (con't)

### **Special Waste/Petroleum Contaminated Soil (18 A.A.C. 13, Art. 13 and Art. 16)**

ADEQ is considering amendments to the rules governing the management, treatment, storage, and disposal of special waste. Special waste is defined by A.R.S. § 49-852 as waste that contains petroleum contaminated soils and waste from shredding motor vehicles, and is currently regulated by two rules. The first, Title 18, Chapter 13, Article 13, regulates registration, manifesting, and fees for both petroleum contaminated soils (PCS), and shredder residue, and provides best management practices (BMPs) for facilities shredding motor vehicles. The second, Title 18, Chapter 13, Article 16, provides BMPs for handling PCS only. Although both rules address the handling of special waste, they were written at different times using different regulatory philosophies, often resulting in inconsistencies between the two rules. In some cases the rules did not envision numerous special waste handling scenarios which have since become issues that must be addressed in rule in order to provide clear direction as to the safe and proper handling of special waste.

ADEQ proposes to combine Title 18, Chapter 13, Article 13 (Special Waste) with Chapter 13, Article 16 (Best Management Practices for Petroleum Contaminated Soil) into one rule as Title 18, Chapter 13, Article 13 (Special Waste). These revisions will rectify contradictions between the two original rules and existing rules and statute, and create a uniform and consistent regulatory structure for all special waste. Revisions will also provide clear direction on waste handling procedures previously not addressed.

Informal stakeholder meetings are being held to discuss ADEQ's preliminary draft of the rules; meetings were held November 4, 2005, December 9, 2005, January 19, 2006, and January 23, 2006. Subsequent meetings will be scheduled as needed.

**Docket Opening:** [I2 A.A.R. 1101](#); Apr. 7, 2006

**Contact:** Kim McDaniel (602) 771-4121

### **Integrated Solid Waste Regulatory Framework (18 A.A.C. 13)**

The purpose of this rulemaking is to establish a systematic and comprehensive framework for regulating solid waste facilities and solid waste streams in Arizona. This rulemaking will integrate and implement statutory provisions related to best management practices, self-certification requirements, plan approval procedures, financial assurance requirements, design and operation rules for solid waste facilities, and other topics.

**Docket Opening:** [I2 A.A.R. 585](#); Feb. 24, 2006

**Contact:** Martha Seaman (602) 771-2221

### **Soil Remediation Standards (18 A.A.C.7, Art. 2)**

ADEQ has proposed rules that will update and revise Chapter 7, Article 2, last amended on December 4, 1997, to be consistent with current scientific data and statute. The proposed changes in the rules would: 1) revise and update the existing predetermined Soil Remediation Levels (SRLs); 2) replace the Voluntary Environmental Mitigation Use Restriction (VEMUR) requirement with Declaration of Environmental Use Restriction (DEUR) requirements consistent with A.R.S. § 49-152; 3) expand the determination of compliance with SRLs to include the use of soil gas analyses; 4) revise language regarding the letter of completion to add alternative closure documents consistent with current statute; and 5) require the use of  $1 \times 10^{-6}$  excess lifetime cancer risk level for remediation at sites if the current or currently intended future use is a school or child care facility where children are reasonably expected to be in frequent and repeated contact with the soil.

**Docket Opening:** [I2 A.A.R. 3196](#); September 1, 2006

**Notice of Proposed Rulemaking:** [I2 A.A.R. 3124](#); September 1, 2006

**Hearings:** October 11, 2006; October 12, 2006

**Close of Comment:** October 13, 2006

**Contact:** Philip McNeely (602) 771-7645

Amanda Stone (602) 771-4567

### **Engineering Controls/Financial Assurance Rules (18 A.A.C. 7, Art. 7)**

A.R.S. § 49-152.01 establishes requirements for a property owner who elects to use an engineering control to meet requirements for cleaning up contaminated property. An engineering control is defined as a remediation method such as a barrier or cap that is used to prevent or minimize exposure to contaminants and that includes technologies that reduce the mobility or migration of contaminants. This new rule will provide details as to how to implement the provisions of A.R.S. § 49-152.01, which specify requirements for an engineering control plan and for financial assurance mechanisms that are intended to cover the costs of maintaining and restoring an engineering control.

**Docket Opening:** [I2 A.A.R. 1035](#); Mar. 31, 2006

**Contact:** Peggy J. Guichard-Watters (602) 771-4117

### **Declaration of Environmental Use Restriction - Permanent Fee Rule (18 A.A.C. 7, Art. 6)**

This is a permanent rulemaking to replace an interim fee rule, pursuant to 2000 Ariz. Session Laws Ch. 225, § 13. It would establish a fee, which a property owner is required pursuant to A.R.S. §§ 49-152(K) and 49-158(G) to pay to ADEQ when a declaration of environmental use restriction (DEUR) is submitted for approval, prior to being recorded. A DEUR is a restrictive covenant that must be recorded when an owner elects to use either an institutional control (i.e., a legal or administrative limitation on activities or

## WASTE PROGRAMS DIVISION (con't)

uses) or an engineering control (e.g., a slab, cap, fence, liner, berm, leachate collection system, or pump and treat technologies) to prevent or minimize exposure to contaminants on the property, or when an owner elects to leave contamination on the property that exceeds the applicable residential soil remediation standard for the property. ADEQ will evaluate its experience with fees paid under the interim DEUR fee rule, to ascertain any ways in which the fee should be revised for the permanent rule. ADEQ has filed a new docket opening which it expects to be published on May 12, 2006.

**Docket Opening:** [12 A.A.R. 1566](#); May 12, 2006

**Contact:** [Peggy J. Guichard-Watters](#) (602) 771-4117

### Voluntary Remediation Fees

#### (18 A.A.C. 7, Art. 5)

The rule sets out fees to be charged by ADEQ under the Voluntary Remediation Program established in A.R.S. Title 49, Chapter 1, Article 5. This is the permanent rulemaking authorized in Laws 2000, Chapter 225, section 13. The interim fee rule language in Article 5 will be replaced with the permanent fee rule.

**Docket Opening:** [12 A.A.R. 2159](#); June 16, 2006

**Contact:** [Peggy J. Guichard-Watters](#) (602) 771-4117

water quality criteria for total ammonia to maintain and protect water quality for aquatic life in EDWs; amending Appendix A by updating the water quality criteria to protect human health and aquatic life; and amending Appendix B by modifying the designated uses listed for surface waters.

**Docket Opening:** [11 A.A.R. 5221](#); Dec. 9, 2005

**Contact:** [Shirley Conard](#) (602) 771-4632

### Aquifer Water Quality Standards

#### (18 A.A.C. 11, Article 4)

This Article establishes aquifer water quality standards. These standards apply to facilities licensed under the Aquifer Protection Permit (APP) program, which discharge pollutants to groundwater and guide remedial and corrective actions by various Department programs, such as Water Quality Assurance Revolving Fund (WQARF), Underground Storage Tank (UST), and Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

The rulemaking will adjust aquifer water quality standards, for uranium, arsenic, and disinfection byproducts to be consistent with the new federal primary drinking water standards adopted by the Environmental Protection Agency (EPA) as required by A.R.S. § 49-223(A).

**Docket Opening:** [12 A.A.R. 1100](#); April 7, 2006

**Contact:** [Shirley Conard](#) (602) 771-4632

## WATER QUALITY DIVISION

### Safe Drinking Water

#### Incorporation by Reference (18 A.A.C. 4)

The primary purpose of this rulemaking is to incorporate EPA's safe drinking water regulations by reference. The rulemaking will update Arizona's safe drinking water rules by incorporating the rule amendments that EPA has adopted since the department last updated its safe drinking water rules, and facilitate future updates to the department's safe drinking water rules.

**Docket Opening:** [12 A.A.R. 1345](#); April 21, 2006

**Contact:** [Sean McCabe](#) (602) 771-4600

### Surface Water Quality Standards

#### (18 A.A.C. 11, Article 1)

ADEQ proposes to update the Surface Water Quality Standards rules by amending definitions; clarifying the applicability of the water quality standards rules; modifying designated uses; proposing new antidegradation implementation procedures; adopting new narrative water quality standards including a new narrative biocriterion; propose new numeric water quality criteria to protect human health; adopting new or revised water quality criteria for suspended sediment in surface waters; classifying new effluent dependent waters (EDWs); adopting numeric

### Impaired Water Identification (18 A.A.C. 11, Art. 6)

ADEQ proposes to update the Impaired Water Identification rules to update methods for impaired water identification and 303(d) listings to be consistent with 2006 federal assessment and 303(d) listing guidance.

**Docket Opening:** [11 A.A.R. 5130](#); Dec. 2, 2005

**Contact:** [Shirley Conard](#) (602) 771-4632

### Water Quality Protection Fees (18 A.A.C. 14, Art. 1)

This rulemaking will revise the fee schedule and rules related to ADEQ's water quality protection services.

**Docket Opening:** [11 A.A.R. 5223](#); Dec. 9, 2005

**Contact:** [Shirley Conard](#) (602) 771-4632

### Waterworks Engineering Review Fees

#### (18 A.A.C. 14, Article 2)

Pursuant to 18 A.A.C. 5, Article 5, Minimum Design Criteria, ADEQ prescribes minimum design standards for public water systems, and reviews plans and specifications for the systems. The purpose of this rulemaking is to establish, by administrative rule, fees for performing technical reviews of plans for public water systems. ADEQ has a statutory responsibility to review plans for these facilities and to assess fees for its reviews. A.R.S. § 49-353(A).

**Docket Opening:** [12 A.A.R. 1179](#); April 14, 2006

**Contact:** [Sean McCabe](#) (602) 771-4600